

other licensed profession recognized in this state, a hospital licensed pursuant to chapter 135B, or a health care facility licensed pursuant to chapter 135C, based upon the alleged negligence in the practice of that profession or occupation, that portion of a statement, affirmation, gesture, or conduct expressing sorrow, sympathy, commiseration, condolence, compassion, or a general sense of benevolence that was made by the person to the plaintiff, relative of the plaintiff, or decision maker for the plaintiff that relates to the discomfort, pain, suffering, injury, or death of the plaintiff as a result of an alleged breach of the applicable standard of care is inadmissible as evidence. Any response by the plaintiff, relative of the plaintiff, or decision maker for the plaintiff to such statement, affirmation, gesture, or conduct is similarly inadmissible as evidence.

Approved May 24, 2006

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## CHAPTER 1129

### COURT ADMINISTRATION AND PROCEDURE

H.F. 2740

**AN ACT** relating to the judicial branch and court administration and procedure and providing a penalty.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 232.133, subsection 2, Code 2005, is amended to read as follows:

2. Except for appeals from ~~final~~ orders entered in child in need of assistance proceedings or ~~final~~ orders entered pursuant to section 232.117, appellate procedures shall be governed by the same provisions applicable to appeals from the district court. The supreme court may prescribe rules to expedite the resolution of appeals from final orders entered in child in need of assistance proceedings or ~~final~~ orders entered pursuant to section 232.117.

Sec. 2. Section 236.5, subsection 5, Code 2005, is amended to read as follows:

5. A copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant, the county sheriff ~~having jurisdiction to enforce the order or consent agreement of the county in which the order or consent decree is initially entered~~, and the twenty-four hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four hour dispatcher for the law enforcement agencies upon notification by the clerk.

Sec. 3. Section 558.66, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon receipt of a certificate ~~from~~ issued by the clerk of the district court or ~~an appellate clerk~~

~~of the supreme court indicating~~ that the title to real estate has been finally established in any named person by judgment or decree or by will or by affidavit of or on behalf of a surviving spouse that has been recorded by the recorder, the auditor shall enter the information in the certificate upon the transfer books, upon payment of a fee in the amount specified in section 331.507, subsection 2, paragraph "a". ~~In the case of a certificate from the clerk of the district court or an appellate court, the fee shall be taxed as court costs, collected by the clerk, and paid to the treasurer as provided in section 331.902, subsection 3.~~ In the case of the affidavit filed with the recorder, the fee set forth in section 331.507, subsection 2, paragraph "a", and the fee set forth in section 331.604, shall be collected by the recorder and paid to the treasurer as provided in section 331.902, subsection 3.

Sec. 4. Section 602.3101, subsection 2, Code 2005, is amended to read as follows:

2. The state court administrator or a designee of the state court administrator shall act as secretary administrator to the board.

Sec. 5. Section 602.4102, subsection 5, Code 2005, is amended to read as follows:

5. The court of appeals shall extend the time for filing of an application if the court of appeals determines that a failure to timely file an application was due to the failure of the clerk of the court of appeals to notify the prospective applicant of the filing of the decision. ~~If an application for further review is not acted upon by the supreme court within thirty days after the application was filed, the application is deemed denied, the supreme court loses jurisdiction, and the decision of the court of appeals is conclusive.~~

Sec. 6. Section 602.5106, subsection 2, Code 2005, is amended to read as follows:

2. A decision of the court of appeals is final and shall not be reviewed by any other court except upon the granting by the supreme court of an application for further review as provided in section 602.4102. Upon the filing of the application, the judgment and mandate of the court of appeals is stayed pending action of the supreme court ~~or until the expiration of the time specified in section 602.4102, subsections 4 and 5.~~

Sec. 7. Section 602.6401, subsection 2, Code Supplement 2005, is amended to read as follows:

2. By February of each year in which magistrates' terms expire, the state court administrator shall apportion magistrate offices among the counties in accordance with the following criteria:

~~a. The number and type of proceedings contained in the administrative reports required by section 602.6606.~~

~~b. a.~~ The existence of either permanent, temporary, or seasonal populations not included in the current census figures.

~~c. b.~~ The geographical area to be served.

~~d. c.~~ Any inordinate number of cases over which magistrates have jurisdiction that were pending at the end of the preceding year.

~~e. d.~~ The number and types of juvenile proceedings handled by district associate judges.

Sec. 8. Section 602.8102, subsections 44, 79, and 113, Code Supplement 2005, are amended by striking the subsections.

Sec. 9. Section 602.8102, subsection 106, Code Supplement 2005, is amended to read as follows:

106. Carry out duties relating to the administration of small estates as provided in sections 635.1, 635.7, and 635.9, ~~and~~ 635.11.

Sec. 10. Section 626.16, Code 2005, is amended to read as follows:

626.16 RECEIPT AND RETURN.

Every officer ~~to whose hands who receives~~ an execution ~~may come~~ shall provide a receipt ~~therefor~~, if required, stating the hour when the same was received, and shall make suffi-

cient return thereof of the execution, together with the money collected, on or before the ~~seventieth~~ one hundred twentieth day from the date of its issuance.

Sec. 11. Section 633.305, Code 2005, is amended to read as follows:  
633.305 NOTICE IF NO ADMINISTRATION.

On admission of a will to probate without administration of the estate, ~~and upon advanced payment of the costs by the proponent, the clerk~~ shall cause to be published, in the manner prescribed in the preceding section, a notice of the admission of the will to probate. As soon as practicable following the admission of the will to probate, the proponent shall give notice of the admission of the will to probate by ordinary mail addressed to the surviving spouse, each heir of the decedent, and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses. The notice of the admission of the will to probate shall include a notice that any action to set aside the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice, or thereafter be barred.

As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219.

The notice shall be substantially in the following form:

Notice of Proof of Will Without Administration

In the District Court of Iowa  
in and for ..... County.

Probate No.  
.....

In the Estate of ....., Deceased

To All Persons Interested in the Estate of ....., Deceased, who died on or about  
..... (date):

You are hereby notified that on the ..... day of ..... (month), ..... (year), the last will and testament of ....., deceased, bearing date of the ..... day of ..... (month), ..... (year), was admitted to probate in the above named court and there will be no present administration of the estate. Any action to set aside the will must be brought in the district court of the county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Dated this ..... day of ..... (month), ..... (year)

.....  
Clerk of the district court Proponent

.....  
Attorney for estate

.....  
Address

Date of second publication  
..... day of ..... (month), ..... (year)  
(Date to be inserted by publisher)

Sec. 12. Section 642.23, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Notwithstanding the ~~seventy-day~~ one hundred twenty-day period in section 626.16 for the return of an execution in garnishment for the payment of a support obligation, the sheriff shall promptly deposit any amounts collected with the clerk of the district court, and the clerk shall disburse the amounts, after subtracting applicable fees, within two working days of the filing of an order condemning funds as follows:

Sec. 13. Section 655.4, Code 2005, is amended to read as follows:  
655.4 ENTRY OF FORECLOSURE.

When a judgment of foreclosure is entered in any court, the ~~clerk~~ mortgagee shall record with the recorder an instrument in writing referring to the mortgage and duly acknowledging

that the mortgage was foreclosed and giving the date of the decree. A mortgagee who fails to record such instrument within thirty days of receiving a written request to record shall be subject to a penalty of one hundred dollars plus reasonable attorney fees incurred by the party aggrieved, to be recovered in an action for the satisfaction or acknowledgement<sup>1</sup> by the party aggrieved. The fee for recording and indexing an instrument shall be as provided in section 331.604.

Sec. 14. Section 655.5, Code 2005, is amended to read as follows:  
655.5 INSTRUMENT OF SATISFACTION.

When the judgment is fully paid and satisfied upon the judgment docket of the court, the ~~clerk~~ mortgagee shall record with the recorder an instrument in writing, referring to the mortgage and duly acknowledging a satisfaction of the mortgage. A mortgagee who fails to record such instrument within thirty days of receiving a written request to record shall be subject to a penalty of one hundred dollars plus reasonable attorney fees incurred by the party aggrieved, to be recovered in an action for the satisfaction or acknowledgement<sup>2</sup> by the party aggrieved. The fee for recording and indexing an instrument shall be as provided in section 331.604.

Sec. 15. Sections 602.6605, 602.6606, and 635.11, Code 2005, are repealed.

Approved May 24, 2006

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## CHAPTER 1130

### CITY EMPLOYEE PENSIONS AND BENEFITS — EMPLOYER CONTRIBUTIONS

H.F. 2774

**AN ACT** relating to trust and agency funds by allowing city contributions for pension and related employee benefits pursuant to contracted public safety services.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 384.6, subsection 1, Code 2005, is amended to read as follows:

1. Accounting for pension and related employee benefit funds as provided by the city finance committee. A city may certify taxes to be levied for a trust and agency fund in the amount necessary to meet its obligations.

a. A city may make contributions to a retirement system other than the Iowa public employees' retirement system for its city manager, or city administrator performing the duties of city manager, in an annual amount not to exceed the amount that would have been contributed by the employer under section 97B.11.

b. If a police chief or fire chief has submitted a written request to the board of trustees to be exempt from chapter 411, authorized in section 411.3, subsection 1, a city shall make contributions for the chief, in an amount not to exceed the amount that would have been contributed by the city under section 411.8, subsection 1, paragraph "a", to the international city management association/retirement corporation. A city may certify taxes to be levied for a trust and agency fund in the amount necessary to meet its obligations.

c. A city which has contracted with another city or governmental entity for the provision of public safety services, including but not limited to police protection, fire protection, ambulance, or hazardous materials response, may, pursuant to contract, make contributions for

<sup>1</sup> According to enrolled Act

<sup>2</sup> According to enrolled Act